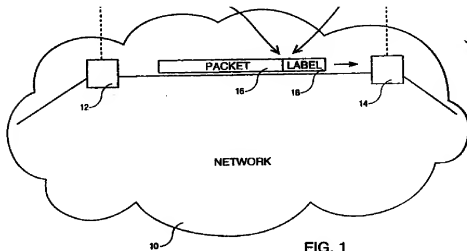the corresponding data packet and the switching tag having the selected tag size of the address field, **without altering the content of the header.**

The Examiner contends that Benayoun et al. discloses that "the label or tag shown in figure 1 is added in front of the packet therefore the content of the header is not altered". With reference to Fig. 1 of Benayoun et al. (see below) it is true that the label 18 is added to a packet 16. However, at column 3, lines 7-11, Benayoun et al. discloses that a flow-id field (label 18) is contained in the header. Thus, since the flow-id field is **contained in the header** of Benayoun et al., the header is necessarily **altered.**

FIG. 1

To the contrary, as shown in FIG. 3B of the specification presented below, the switching tag 57 is added at the start of the packet 59 (in front of the header 40) and thus does not alter the header 40. As indicated by FIG. 3B, the header 40 is part of the packet 59. However, the tag 57 is not contained in the header 40 as in Benayoun et al.
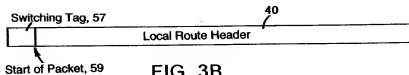

FIG. 3B

Furthermore, the independent claims recite a switching tag, having a tag size as a prescribed number of bits of an address field, added to a start of the corresponding data packet, with the switching tag **having the selected tag size of the address field**. First, Benayoun et al., at column 1, lines 22-23, discloses that the flow to which the packet is assigned is associated with "a short fixed length valve known as a label". Thus, in Benayoun et al., since the label is of fixed size, there is no selecting a tag size as a prescribed number of bits of an address field as claimed.

Furthermore, in Benayoun et al., when an arriving packet does not have an assigned label, a default label is used (see column 3, lines 28-29) and that a "common label is then stored...together with the header bytes of the packet." Thus, since the default label is common for certain packets in Benayoun et al., the label cannot have a selected tag size of the address field as claimed. Furthermore, if the label in Benayoun et al. was modified to have the selected tag size of the address field, this modification would improperly destroy the invention of Benayoun et al., since a default label is required when an arriving packet does not have a label. See Ex parte Hartmann, 186 U.S.P.Q. 366, 367 (P.T.O.B.O.A. 1974) (reversing rejection when modification would destroy basis for invention in one or two references).

For these and other reasons, this §103 rejection should be withdrawn.

It is believed the dependent claims are allowable in view of the foregoing.

In view of the above, it is believed this application is in condition for allowance, and such a Notice is respectfully solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-0687, under Order No. 95-512, and please credit any excess fees to such deposit account.

Respectfully submitted,

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